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(USA), INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. Master File No. 3:07-cv-05944-SC
MDL NO. 1917

This Document Relates to:

*Costco Wholesale Corporation v. Hitachi,
Ltd., et al.*, No. 3:11-cv-06397-SC;

Costco Wholesale Corp. v. Technicolor SA, et al.,
Individual Case no. 13-cv-05723;

*CompuCom Systems, Inc. v. Hitachi, Ltd., et
al.*, Individual Case No. 11-cv-06396;

Office Depot Inc. v. Hitachi Ltd., et al.,
Individual Case No. 11-cv-06276;

**DECLARATION OF JAMES MAXWELL
COOPER IN SUPPORT OF
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PURSUANT TO CIVIL
LOCAL RULES 79-5(d) AND 7-11 RE
DEFENDANTS' JOINT REPLY TO
COSTCO'S OPPOSITION TO (1)
DEFENDANTS' JOINT MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST CERTAIN DIRECT ACTION
PLAINTIFFS ON DUE PROCESS
GROUNDS [ECF NO. 3029] AND (2)
DEFENDANTS' JOINT MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST COSTCO ON CHOICE OF
LAW GROUNDS [ECF NO. 2997]**

1 I, James Maxwell Cooper, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and the Northern
3 District of California. I am an associate with the firm of Kirkland & Ellis LLP, and counsel for
4 Hitachi, Ltd., Hitachi Asia, Ltd., Hitachi America, Ltd., Hitachi Displays, Ltd. (n/k/a Japan Display
5 Inc.), and Hitachi Electronic Devices (USA), Inc. (collectively, the “Hitachi Defendants”). Except
6 for those matters stated on information and belief, about which I am informed and which I believe to
7 be true, I have personal knowledge of the facts stated herein and, if called as a witness, I could and
8 would competently testify thereto.

9 2. I submit this declaration in support of Hitachi Defendants’ Administrative Motion to
10 File Under Seal Pursuant to Civil Local Rules 79-5(d) and 7-11. I make this declaration pursuant to
11 Civil Local Rule 79-5(d) to establish that certain documents containing Confidential and Highly
12 Confidential information and submitted to the Court in connection with Defendants’ Joint Reply to
13 Costco’s Opposition to (1) Defendants’ Joint Motion for Partial Summary Judgment Against Certain
14 Direct Action Plaintiffs on Due Process Grounds [ECF No. 3029] and (2) Defendants’ Joint Motion
15 for Partial Summary Judgment Against Costco on Choice of Law Grounds [ECF No. 2997]
16 (“Reply”) are sealable.

17 3. On June 18, 2008, the Court approved a “Stipulated Protective Order” in this matter
18 (Dkt. 306). On January 23, 2015, the Hitachi Defendants filed an Administrative Motion to Seal, and
19 lodged conditionally under seal, the following documents, or portions thereof, pursuant to Civil
20 Local Rules 7-11 and 79-5(d):

21 a. Portions of the Reply that contain quotations or information from documents and/or
22 deposition testimony that certain Defendants have designated “Highly Confidential”;
23 and

24 b. Exhibit 2 and 4 attached to the Declaration of James Maxwell Cooper in Support of
25 the Reply (“Cooper Declaration”), which are excerpts from deposition testimony that
26 the Hitachi Defendants have designated “Highly Confidential.”

27 4. Pursuant to Civil Local Rule 79-5(d), I make this declaration on behalf of the Hitachi
28 Defendants to provide the basis for the Court to maintain under seal certain documents and

1 information designated by the Hitachi Defendants as “Confidential” or “Highly Confidential”
2 pursuant to the Stipulated Protective Order, and all references to those documents and information in
3 the Reply.

4 5. Exhibit 2 to the Cooper Declaration is a true and correct copy of excerpts from the
5 deposition of L. Thomas Heiser, dated March 18, 2014, and designated by Hitachi Defendants as
6 “Highly Confidential.”

7 6. Exhibit 4 to the Cooper Declaration is a true and correct copy of excerpts from the
8 deposition of Kazumasa Hirai, dated February 4, 2014 and designated by Hitachi Defendants as
9 “Highly Confidential.”

10 7. Upon information and belief, the testimony included in Exhibits 2 and 4 contains
11 confidential, nonpublic, proprietary and highly sensitive business information about the Hitachi
12 Defendants’ sales processes, business practices, internal practices, negotiating tactics, confidential
13 business and supply agreements and/or competitive positions. These documents describe
14 relationships with companies that remain important to the Hitachi Defendants’ competitive position.
15 I am informed and believe that this is sensitive information and public disclosure of this information
16 presents a risk of undermining the Hitachi Defendants’ business relationships, would cause it harm
17 with respect to its competitors and customers, and would put the Hitachi Defendants at a competitive
18 disadvantage.

19 8. The highlighted portions of the Reply quote from, describe, or contain documents or
20 information designated as “Highly Confidential” by the Hitachi Defendants pursuant to the
21 Stipulated Protective Order, including Exhibits 2 and 4 to the Cooper Declaration. I understand that
22 Hitachi considers any statements in the Reply purporting to summarize the exhibits or any other
23 documents or information designated as “Confidential” or “Highly Confidential” by the Hitachi
24 Defendants is confidential and proprietary. I am informed and believe that the Hitachi Defendants
25 have taken reasonable steps to preserve the confidentiality of information of the type contained,
26 identified, or cited to in Exhibits 2 and 4, and referenced in the Reply.

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3
4 DATED: January 23, 2015

By: /s/ James Maxwell Cooper

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14 ASIA, LTD., AND HITACHI
15 ELECTRONIC DEVICES (USA), INC.
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